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C O N F I D E N T I A L LA PAZ 001840

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TAGS: ECON EMIN EINV BL

SUBJECT: TIME TO INVEST IN BOLIVIAN MINING? NOT LIKELY

REF: A. A. LA PAZ 1740
 1B. B. LA PAZ 1403
 1C. C. LA PAZ 363

Classified By: Ambassador Philip S. Goldberg for reasons 1.4 (b) and (d).
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Summary

11. (C) In the past week emboff has fielded calls from three U.S. companies seeking information about the investment climate for Bolivia's mining sector. U.S. mining companies have also contacted U.S. congressional representatives with their views of the investment climate in Bolivia (in connection with lobbying for extension of ATPDEA). With a draft of a proposed new mining code in circulation but not officially under review, and with proposed tax changes pending in the Bolivian congress, much of the current talk in the Bolivian mining sector remains at the level of rumor, but a quick review of current speculation is informative. Unequal treatment of cooperatives and international mining companies is raising questions of fairness and constitutionality in the sector. Although the three major U.S. companies invested in Bolivia (Coeur D'Alene, Apex Silver and Newmont) intend to continue with current projects, overall the investment climate in the Bolivian mining sector is unattractive to U.S. concerns, and the GOB's claims of Chinese and Venezuelan interest in the sector have yet to come to fruition. End Summary.

Official Optimism; Private Pessimism

12. (C) Emboff received a copy of a letter from Idaho-based mining company Coeur D'Alene to Senator Charles Grassley asking for Senator Grassley to support extension of the ATPDEA. According to the lobbyist who provided the letter, Coeur had to "gulp once or twice over some of the wording (which we allowed them (the GOB) to participate in

(writing)). The letter to Senator Grassley included the following statement: "We have diligently and cautiously followed the policies of the new government under President Evo Morales. We believe the government has already advanced and continues to improve a position that protects and encourages foreign investment." The reality is apparently not so rosy. In emboff's meetings with mining association president Humberto Rada, Mr. Rada has stated that the majority of his members have ceased exploration activities in Bolivia and are not planning further investments under the current regulatory climate. In an op-ed entitled "Adios to mining investments", former mining minister Jorge Espinoza reviewed recent proposed changes in the mining sector and also concluded that, "After the San Cristobal and San Bartolome projects are in progress, we can forget about new mining investments, because who would be disposed to invest under these conditions?"

International lenders and insurers wary

¶3. (C) Two U.S.-based gold companies have been in contact with emboff within the last week seeking information about the investment climate in Bolivia. One company called to complain that the U.S. government's Overseas Private Investment Corporation (OPIC) was not willing to lend his company money. OPIC was raised by another gold company considering investing in Bolivia: the company representative mentioned in frustrated aside that "no one is interested in political risk insurance in Bolivia--not even OPIC." Although the executive of an established Bolivian operation recently reported to emboff that his mine had been able to secure funding from Bolivian banks, international investment in Bolivia seems unavailable. The fact that proposed (but not yet passed) changes to the mining code would prohibit companies from mortgaging concessions or listing concessions as reserves will make financing difficult to obtain in the interim, and if the proposed changes pass, financing could be next to impossible (ref A.)

Nationalization rumors

¶4. (C) Rumors of nationalization in the mining industry are currently only whispers, but the whispers come from many directions. In the past two weeks, emboff has heard the following suggestions for why and when nationalization will take place:

¶A. The proposed new mining code is unlikely to get through the senate, so the Morales administration will announce "nationalization" of the mining industry and then use the resulting pressure to negotiate deals (similar to what occurred after the "nationalization" of the hydrocarbons industry.) Industry observers suggest that, if threatened with nationalization in some form, mining companies will be willing to accept the joint ventures that the Morales administration wants.

¶B. The Morales government will need a crowd-pleasing "success story" for Bolivia's national day August 6th. Since the Constituent Assembly cannot be expected to provide any real positive news by August, some observers in the mining community suggest that an announcement of nationalization of certain mines or the entire industry will be President Morales's way of distracting the populace from the failures of the Constituent Assembly.

¶C. The Morales administration is seeking vengeance on ex-president "Goni" Sanchez de Lozada. First the GOB nationalized the Vinto smelter that was formerly owned by Sanchez de Lozada's mining company (COMSUR), and next the GOB will be looking at other former Goni properties. In particular, rumors abound about the Don Mario mine, currently owned by Canadian company Orvana, which has a former COMSUR vice president as a member of its board of directors.

Web-searches and comments from Bolivian mining observers imply that Sanchez de Lozada is still connected with Orvana, either as chairman of the board or as part-owner. One Bolivian mining executive went so far as to say, "The Morales government has it in for Goni, but they're going to destroy the whole industry in the process."

Exploration worth the effort?

15. (SBU) In addition to the various concerns listed above, article 122 of the current draft mining code gives "right of priority" to indigenous, original and campesino communities which are legally recognized and registered. Although the draft article does not give full details, it seems that these communities would have the right to develop and mine any discoveries made on their land. Minerals exploration is an uncertain business, with most efforts never resulting in a strike. Mining companies are not encouraged by the idea that their future exploration in Bolivia might be on someone else's behalf: that the discovery of a deposit could trigger nothing more than ownership for another group or, in a better scenario, lengthy negotiations with the local community who would have full rights to develop or block development of the discovery.

16. (C) Currently Manquiri and Inti Raymi have informed emboff that they are continuing minimal exploration in the country (Manquiri executives stated that they are hoping to outlast the Morales administration, and Inti Raymi is exploring near their current operations under agreements with local cooperative groups. Inti Raymi also has a lead on a new deposit near Potosi, and they are pushing hard to cement the discovery before passage of the new mining code, because it is located in an area which could have an indigenous claim.) Other companies, including some Canadian concerns, are also continuing sporadic exploration, but the rate has slowed.

Unequal treatment

17. (SBU) Although the GOB nominally supports the idea of universality and fair treatment under the tax code, various entities in the mining sector will be treated differently under the proposed changes to the tax regime and mining code (ref A). With an eye to his public support, President Morales has excluded cooperatives from the proposed 12.5 percent profit-tax increase, and cooperatives will also be required to pay only 60 percent of royalties (note: various observers have claimed to emboff that cooperatives avoid paying most taxes anyway). When emboff met with representatives of the La Paz departmental federation of mining cooperatives (FEDECOMIN La Paz) on June 21, FEDECOMIN La Paz president Mario Carvajal Lozano said his members are comfortable with proposed changes in the tax law and claimed that the cooperatives and the government share "convergent interests."

18. (C) In contrast, in a May 18 meeting with emboff, Andres Vilca, president of the national federation of cooperative miners (FENCOMIN) alleged that the Morales government was trying to eliminate the cooperatives (ref B.) After recent shows of strength on the part of the cooperative miners, however, including marches on the Constituent Assembly in Sucre, the Morales government has made considerable concessions to the cooperatives. In addition to the tax exemptions, the Morales government modified its May 1 decree which declared all national territory to be "fiscal mining reserve" to allow the continued processing of concessions which cooperatives had filed for but not finalized before the decree. The draft of the proposed new mining code also includes a number of articles where cooperatives are specifically excluded. Many observers have noted with concern that the Morales government continues to concede political ground to the cooperatives (ref C), and former

mining minister Jorge Espinoza has openly declared these unequal policies to be unconstitutional. (Comment: U.S. mining executives met July 3 with the Ambassador to inform him that they are currently unable to get meetings with the Mining Minister and with COMIBOL. In contrast, press reports indicate that FENCOMIN has managed to arrange multiple hour-long meetings with the two agencies in past weeks. FENCOMIN's tradition of violent street protests (ref C) might explain this discrepancy in treatment. See septel for readout of Ambassador's meeting with U.S. mining executives. End comment.)

Rumors of investment from other countries

19. (C) According to industry observers, the mining ministry cites investment interest from other countries (particularly China and Venezuela) when confronted with the potential decrease in investment from U.S. sources. Putting aside the qualitative differences in investment from other countries (which are not likely to be the good corporate citizens that U.S. mining companies have shown themselves to be in Bolivia), there have been no formal announcements of investment from these other countries. The experience of Jindal, which is currently trying to negotiate a contract with the GOB to mine an iron deposit, may serve as a warning to other foreign investors as well, since the negotiation process has been slow and difficult for the Indian company.

Conclusion

110. (C) The Morales administration seems actively antagonistic towards private mining investment, possibly in part due to past political connections within the mining industry which are anathema to current leftist ministers. The basic lack of trust makes it difficult for mining executives to even arrange meetings, let alone be heard by the GOB, and the GOB's combination of radical idealism and lack of managerial or technical capacity makes any progress in the sector difficult. Companies which are already invested in the country are endeavoring to hold on, but most exploration has been put on hold as the international mining community waits to see what develops. It is also not encouraging to international companies that that the draft of the proposed new mining code includes a list of requirements that companies must meet so that bilateral investment treaties will still be applicable and a clause that would require joint venture contracts to "recognize the Bolivian legal system as the only jurisdiction for resolving controversies." In general, although U.S. companies are not panicking, neither are they enthusiastic about the investment climate in Bolivia. In meetings on July 3 with the Ambassador, U.S. mining executives asked that the Embassy use its contacts with Vice President Garcia Linera to encourage the GOB to at least talk with international mining companies.

Sadly, without dynamite in the streets, it is uncertain whether the Embassy or the international mining companies will be able to attain even this minimal goal. End conclusion.

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